

CITY COMMISSION MINUTES

October 20, 2009

7:00p.m.

The regular meeting of the Junction City City Commission was held on Tuesday, October 20, 2009 with Mayor Terry Heldstab presiding.

The following members of the Commission were present: Scott Johnson, Mike Rhodes, Ken Talley, and Jack Taylor. Staff present was: Assistant City Manager Mike Guinn, City Attorney Catherine Logan, and City Clerk Tyler Ficken.

Representatives from the Junction City South Kiwanis Club and Mayor Terry Heldstab presented Most Improved Student awards to up to 14 USD 475 elementary school students.

GENERAL DISCUSSION

Robert Blanken, 1120 W. 5th, Junction City, KS with the group Citizens for Responsible Ordinances was saddened by the problems with the petition due to the lack of specific legal wording. Mr. Blanken wanted the Commission to know that the citizens want something to be done as 1200 people had signed his petition and 500 had signed a prior petition.

Alan Bontrager, 7926 Old Milford Rd, Milford, KS the safety of 18th and Jackson intersection needs to be examined and traffic is often backed up 2-3 blocks. Regarding the management of the City it is a credit to the City staff that one person can supervise two or three departments, but quality of service should not suffer due to budget shortage. Alan believes there needs to be a CFO very soon, and would like to know the debt load of the City so that he can try to calculate future property taxes and mill levy increases. There should be no more favoritism to certain businesses: Perfection was allowed not to have building permits, and Waters parking lot is owned and maintained by the City. Alan was disappointed with Rod's comments at Wunder's trial regarding how mafia was part of Junction City life.

Sandy Kopenfeffer, 300 Gulf Drive, Junction City, KS addressed the Commission regarding property acquisition by the City at 1510 N. Clay in 2004.

CONSENT AGENDA

Item 3f was requested to be pulled from the Consent Agenda for separate action.

Commissioner Rhodes moved, seconded by Commissioner Taylor to approve the Consent Agenda as amended. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried. The Consent Agenda consisted of the following:

- a. Approval of the September 15, 2009, City Commission meeting minutes; approval of the September 22, 2009 Special City Commission meeting minutes.
- b. The consideration of Appropriation Ordinance dated September 17 to October 14, 2009 in the amount of \$2,616,538.85.
- c. Monthly Reports:
 1. Personnel Report
 2. Codes Report
 3. Fire Department/EMS Report
 4. Rolling Meadows Report
 5. Water Department Report
 6. Police Department Report
- d. The consideration and approval of Payroll #19 and #20 for the month of September 2009.
- e. The consideration and approval to pay Eickholt Excavating invoice in the amount of \$20,000.00 for services related to trenching for street lights on Rucker Rd.
- g. The consideration and approval Ordinance G-1058 to update the City Ordinance to accurately reflect the new 2009 Standard Traffic Ordinance. (First Reading)
- h. The consideration and approval of Pay Estimate #2 by HWS Consulting Group in the amount of \$25,143.64 for professional services through August 29, 2009 on Phase 2 of the Freeman Field Airport Runway 18/36 Asphalt Overlay project.
- i. The consideration and approval of the Grant of Permanent Right-of-Way at 505 W. 2nd St. from John J. and Joan Gorman for the Safe Routes to School project.
- j. The consideration and approval of the Grant of Temporary Easement at 111 Parkview Drive Addition for the Safe Routes to School project.
- k. The consideration and approval of the Grant of Permanent Right-of-Way at 424 North Eisenhower from John G. Montgomery (Trust) for the Safe Routes to School project.

- l. The consideration and approval of the Permanent Right-of-Way Grant at Lot 1, Block 1 of USD 475 Addition for the Safe Routes to School project.
- m. The consideration and approval of the Grant of Temporary Easement at Lot 1, Block 1 of USD 475 Addition for the Safe Routes to School project.
- n. The consideration and approval of the sale of property located at 126 W. 11th to high bidder Christopher R. Scarff for \$5,000.00.
- o. The consideration and approval for Pay Request by Westar Energy in the amount of \$79,102.53 for Electric Line Modification and Relocation of two structures on the East Chestnut Street project. This is the final bill.
- p. The consideration and approval of Pay Estimate #7 by Middlecreek Corporation in the amount of \$23,257.50 for infrastructure improvements on East Ash Street. This is the final bill.
- q. The consideration and approval to add a bus loading/unloading zone area at the Dixon Education Center on the North side of the building, in the 900 Block W. 8th Street.

ITEM FOR SEPARATE ACTION

- f. The consideration and approval of a settlement agreement with Brenda Gentry on the collection of an outstanding revolving loan with the City of Junction City.

Commissioner Taylor asked where the money for this loan came from. Assistant City Manager Mike Guinn responded that the funds came from the Revolving Loan Fund. The funds come from the State of Kansas, and oversight is done by the City. Commissioner Johnson wanted to know if the City would be able to recover legal fees from Brenda Gentry. Catherine Logan, City Attorney, explained that since there was no agreement for payment of legal fees by Mrs. Gentry in the original contract, that the City would not be able to collect the fees. Commissioner Taylor moved, seconded by Commissioner Johnson to approve the settlement agreement with Brenda Gentry on the collection of an outstanding revolving loan with the City of Junction City. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

SPECIAL PRESENTATIONS

Mayor Heldstab read the City Proclamation recognizing October as Breast Cancer Awareness Month.

Officer Wigton and Mayor Heldstab presented a certificate/award to the 2009 Yard of the Year winner the Scott Family at 504 W. Chestnut. Officer Wigton thanked the sponsors who participated in this program throughout the year.

PUBLIC HEARINGS

Mayor Heldstab opened the public hearing for the consideration of Vacation of Right-of-Way located in front of the Mary K. Munson property. Upon hearing no comments, Mayor Heldstab closed the public hearing.

The consideration and approval of Ordinance S-3066 vacating and discontinuing a portion of previously dedicated public Right-of-Way located in front of the Mary K. Munson property in the City of Junction City, Geary County, Kansas. (First Reading) – Mike Guinn Presenting. Commissioner Rhodes moved, seconded by Commissioner Johnson to approve Ordinance S-3066 on first reading. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

UNFINISHED BUSINESS

The consideration and approval of R-2567 to install lights for the Republican River Boat Ramp Area. (Includes 4 lights at \$8.52 per light per month) – Mike Guinn Presenting. Commissioner Johnson commented that the boat ramp does not need lights and is lit well by a nearby road. Commissioner Taylor agreed and does not see the need for the lights. Mayor Heldstab asked for the cost of a single light. Mike Guinn responded that a single light would be \$8.52 per month. Heldstab suggested tabling this issue until more information is received. Issue died due to lack of a motion.

NEW BUSINESS

The consideration of an initiative petition regarding the Junction City, Kansas Non-smoker Protection Ordinance by either (A) passing the proposed Ordinance – without alteration; or (B) approving a resolution calling for a special election to consider the proposed ordinance. – Katie Logan Presenting. On October 2, 2009, a signed original Initiative Petition consisting of 55 pages was filed with the City Clerk by the Citizens for Responsible Ordinances. Also filed with the City Clerk was (1) a copy of a letter from Steven L. Opat, Geary County Attorney, regarding the requirements of KSA 25-3601 and 3602, and (2) a copy of the proposed

"Junction City, Kansas Non-smoker Protection Ordinance." The City Clerk submitted the original petition to Rebecca Bossemeyer, the County Clerk and County Election Officer, for verification that the signers were registered voters of the City of Junction City, Geary County, Kansas, at the time they signed the petition. The County Election Officer confirmed that the petition includes at least the number of signatures required under Kansas statutes governing petition, initiative and referendum, KSA 25-3601 *et seq.*, (the "Initiative Statutes"), which is at least 474 valid signatures. If the petition submitted and proposed ordinance submitted meet all of the requirements of Initiative Statutes, within 20 days after certification of signatures, the City Commission must either pass the proposed ordinance or call a special election to consider the proposed ordinance, in each case without alteration of the proposed ordinance. It is my opinion that both the petition and the form of ordinance filed by the Citizens for Responsible Ordinances do not meet the requirements of the Initiative Statutes, and therefore that the City Commission is not required to adopt the ordinance or schedule an election.

The bases for my opinion are as follows:

First, the Initiative Statutes, and specifically KSA 25-3602, require that the body of the petition must include the proposed "form of question" to be used on the ballot if the Governing Body elects to put the proposed ordinance it to a vote.

KSA 25-3602(b)(1) states: "Each petition shall, unless otherwise specifically required: (1) State the question which petitioners seek to bring to an election, in the form of a question as it should appear upon the ballot in accordance with the requirements of KSA 25-620 and amendments thereto."

KSA 25-620 states: "...on the ballot there shall be printed the proposition or question to be voted on. Each proposition or question shall be preceded by the words, 'Shall the following be adopted?'"

A "form of question" was attached to the form of petition submitted by the Citizens for Responsible Ordinances to Steven L. Opat, Geary County Counselor, and the form of question was approved by him as part of the petition. The petition that was filed with the City Clerk consists of 55 pages. There is no "form of question," as approved by Mr. Opat and required by the Initiative Statutes, included in or attached as part of the filed petition. The Kansas Attorney General has consistently ruled that the requirements of KSA 25-3602 are mandatory, and that a petition that fails to "state the question" is invalid because "it does not state the question which petitioners seek to bring to an election." See AG Opinion 94-119 and numerous prior Attorney General Opinions cited therein. Accordingly, it is my opinion that the petition is invalid and the City Commission therefore is not required to adopt the proposed ordinance or submit it for an election.

There is a second and independent reason that the above petition is invalid. City ordinances are required by KSA 12-3005 to include a so called "ordaining clause" providing "be it ordained by the governing body of the city of...." There is no "ordaining clause" in the proposed ordinance submitted to the City Clerk by the Citizens for Responsible Ordinances. If a valid petition is submitted, the Initiative Statutes require the City Commission either to adopt a proposed ordinance or submit it to vote without any alteration in the language. The Kansas Attorney General has ruled that a petition which does not propose an ordinance with an "ordaining clause" is invalid. AG Opinion 89-61. This is because the ordinance itself, which cannot be changed, is approved would be void and unenforceable. Based upon this second defect in the initiative process, the City Commission cannot adopt the proposed ordinance as presented or submit it to a vote because the City Commission lacks the authority to alter or change the proposed ordinance in any way, and as proposed the ordinance would be void and unenforceable. Finally, the City Commission has always had the authority to adopt a regular ordinance regulating smoking. If the City Commission decides to consider the proposed ordinance, or a variation of the proposed ordinance, independently of the petition process, the proposed ordinance will have to be revised to include an "ordaining clause." The proposed ordinance also contains numerous errors as to section references and cross references which would have to be cleaned up. Robert Blanken again asked the Commission to consider the 1700 total signatures. Robert Blanken stated that he asked Mayor Helstab and Representative Craft to join him while collecting signatures but they did not. Mayor Heldstab responded that he did not feel that would have been appropriate to participate. Commissioner Johnson suggested that the smoking groups should wait until the 2010 election to have a smoking ballot initiative in order to save taxpayer money. Mike Guinn reported to the Commission that according to County Clerk Rebecca Bossemeyer a special election would cost \$20,000 for a precinct ballot and \$47,000 for a mail ballot. Commissioner Rhodes suggests seeing what the state decides to do regarding the issue of smoking.

ACTION ON APPLICATION AND PETITION FOR GOODY'S PLAZA PROPOSED COMMUNITY IMPROVEMENT DISTRICT. – Katie Logan Presenting.

Commissioner Rhodes recused himself from this discussion and vote as his employer rents property at Goody's Plaza. Commissioner Talley mentioned that before moving too far in the CID process that the City should work to set guidelines for CID funded projects. He also stated, the commission should work to make clear to the community what this program is to be used for. Commissioner Johnson asked if the City would be on the hook for any of this money. Catherine Logan informed

Commissioner Johnson that the City would not be on the hook for the money. Commissioner Taylor presented his concern that the property owner may be able to keep the CID funds as profit instead of property improvement. Catherine Logan explained to the Commission that there is great latitude in what the property owner can use the funds for; but it is the responsibility of the City Commission to set guidelines for the use of funds.

The consideration of Resolution R-2573 authorizing the adoption of a Funding Agreement between the City and RPS JC CENTER, L.L.C., a Kansas limited liability company was presented. Commissioner Johnson moved, seconded by Commissioner Talley to approve R-2573. Ayes: Heldstab, Johnson, Talley, Taylor. Nays: None. Abstention: Rhodes. Motion carried.

The consideration of Resolution R-2574 determining that the City is considering establishing a community improvement district within the City, establishing the date and time of a public hearing on such matter, and providing for the giving of notice of such public hearing (Goody's Plaza Project). Commissioner Johnson moved, seconded by Commissioner Taylor to approve R-2574. Ayes: Heldstab, Johnson, Talley, Taylor. Nays: None. Abstention: Rhodes. Motion carried.

General Discussion of Neighborhood Revitalization Plan by City Attorney - Katie Logan. Katie Logan informed the City Commission on issues regarding the NRP program for Commercial and Residential properties. The Commission was informed that NRP applicants must meet certain requirements; if the previously approved requirements are met by NRP applicants then the Commission cannot completely deny an NRP application. For commercial NRP applications, the City Commission can only change the rebate percentage and/or number of years. If a project meets the requirements of the NRP program, then the applicant cannot be denied. Regarding residential properties, the Commission must approve NRP applications that meet requirements without altering the rebate terms. Commissioner Johnson commented that this program is used too much and that taxes across the City should be cut.

The consideration and approval of Neighborhood Revitalization Application for Mitesh Patel to construct a motel, Comfort Inn & Suites, on Ash Street (in between Beacon Marine and Value Place); the approximate cost is \$5,800,000. – Stacy Schulte Presenting. Commissioner Johnson recused himself from this discussion and vote due to a conflict of interest. Commissioner Rhodes suggested that the City should create categories of businesses; the City Commissioners would have a better

idea of when a business should receive NRP funding. Commissioner Rhodes stated that he believes the City may have too many motels. Mayor Heldstab shared this concern. Mayor Heldstab asked Mr. Patel how many motels he has built, and the number he still owns. Mr. Patel replied that he has built 11 and continues to own 3. Commissioner Taylor moved, seconded by Commissioner Rhodes to approve Neighborhood Revitalization application for Mitesh Patel to construct a motel, Comfort Inn & Suites at 50% tax rebate for 1 year. Ayes: Heldstab, Rhodes, Talley, Taylor. Nays: None. Abstention: Johnson. Motion carried.

The consideration and approval of Neighborhood Revitalization Application for Triangle Self Storage, LLC to construct storage units at 1706 Old Hwy 40; the approximate cost of construction is \$152,600. – Stacy Schulte Presenting. Commissioner Taylor asked Tom Silovsky who Triangle Self Storage, LLC was. Mr. Silovsky stated that Triangle Self Storage, LLC is a company that purchased storage facilities he once owned and now manages. Commissioner Taylor asked Mr. Silovsky the number of units that will be at the new facility and Mr. Silovsky was unable to answer. Commissioner Rhodes moved, seconded by Mayor Heldstab to approve Neighborhood Revitalization Application for Triangle Self Storage, LLC to construct storage units at 1706 Old Hwy 40 at a 95% rebate for 3 years, Ayes: Heldstab, Rhodes. Nays: Johnson, Talley, Taylor. Motion Failed. Commissioner Taylor moved, seconded by Commissioner Johnson to approve Neighborhood Revitalization Application for Triangle Self Storage, LLC to construct storage units at 1706 Old Hwy 40 at a 50% rebate for 1 year, Ayes: Heldstab, Johnson, Talley, Taylor. Nays: Rhodes. Motion carried.

The consideration and approval of Neighborhood Revitalization Application for B&B Busing to construct office and shop building (70' by 40') at 2772 Gateway Court; the approximate cost of construction is \$232,540. – Stacy Schulte Presenting. Commissioner Johnson asked where B&B Busing gets revenue. Brian Bennett explained that B&B Busing contracts with individuals and also has a contract with USD 475 for services. Commissioner Taylor asked where the B&B Buses are currently located. Mr. Bennett responded that the buses are located at the address provided in the NRP application 2772 Gateway Court. Commissioner Rhodes moved, seconded by Mayor Heldstab to approve Neighborhood Revitalization Application for B&B Busing to construct office and shop building at 2772 Gateway Court at a 95% rebate for 3 years, Ayes: Heldstab, Rhodes. Nays: Johnson, Talley, Taylor. Motion Failed. Commissioner Taylor moved, seconded by Commissioner Johnson to approve Neighborhood Revitalization Application for B&B Busing to construct office and shop building at 2772 Gateway Court at a 50%

rebate for 3 years, Ayes: Heldstab, Johnson, Talley, Taylor. Nays: Rhodes. Motion carried.

The consideration and approval of Neighborhood Revitalization Application for Terry Kidd to construct a house at 402 W. 14th; the approximate cost of construction is \$102,023.00. – Stacy Schulte Presenting. Commissioner Taylor moved, seconded by Commissioner Rhodes to approve Neighborhood Revitalization Application for Terry Kidd to construct a house at 402 W. 14th for 95% tax rebate for years 1 & 2, 75% for year 3, 50% for year 4 and 25% for year 5. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

The consideration and approval of Neighborhood Revitalization Application for Jacqueline Jackson (self help housing) to construct a house at 1002 W. 14th; the approximate construction cost is \$130,000. – Stacy Schulte Presenting. Commissioner Rhodes moved, seconded by Commissioner Taylor to approve Neighborhood Revitalization Application for Jacqueline Jackson to construct a house at 1002 W. 14th for 95% tax rebate for years 1 & 2, 75% for year 3, 50% for year 4 and 25% for year 5. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

The consideration and approval of Neighborhood Revitalization Application for Darrell Williams (self help housing) to construct a house at 203 E. 17th; the approximate construction cost is \$105,000. – Stacy Schulte Presenting. Commissioner Rhodes moved, seconded by Commissioner Taylor to approve Neighborhood Revitalization Application for Darrell Williams to construct a house at 203 E. 17th for 95% tax rebate for years 1 & 2, 75% for year 3, 50% for year 4 and 25% for year 5. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

The consideration and approval of Neighborhood Revitalization Application for Jayna Schweitzer (self help housing) to construct a house at 404 W. 11th; the approximate construction cost is \$130,000. – Stacy Schulte Presenting. Commissioner Rhodes moved, seconded by Commissioner Taylor to approve Neighborhood Revitalization Application for Jayna Schweitzer to construct a house at 404 W. 11th for 95% tax rebate for years 1 & 2, 75% for year 3, 50% for year 4 and 25% for year 5. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

The consideration and approval of Neighborhood Revitalization Application for Keisha Taylor (self help housing) to construct a house 731 W. 10th; the approximate construction cost is \$130,000. – Stacy Schulte

Presenting. Commissioner Rhodes moved, seconded by Commissioner Talley to approve Neighborhood Revitalization Application for Keisha Taylor to construct a house at 731 W. 10th for 95% tax rebate for years 1 & 2, 75% for year 3, 50% for year 4 and 25% for year 5. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

The consideration and approval of Neighborhood Revitalization Application for Muhammed Saker (self help housing) to construct a house at 1101 N. Franklin; the approximate construction cost is \$130,000. – Stacy Schulte Presenting. Commissioner Taylor asked how many more homes will be funded with the self help housing grant. Dan Pfizenmaier replied that we are currently in phase 2 of 3 with each phase consisting of 6 homes. Commissioner Rhodes moved, seconded by Commissioner Taylor to approve Neighborhood Revitalization Application for Muhammed Saker to construct a house 1101 N. Franklin for 95% tax rebate for years 1 & 2, 75% for year 3, 50% for year 4 and 25% for year 5. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

The consideration and approval of Resolution R-2569 to sell All of Lots 1 and 2, Block 4 Except the West 15 feet of said Lot 2, Westwood Heights Addition to Junction city, KS, commonly known as 1002 W. 14th Street; to Jacqueline Jackson. Purchase price is \$11,000.00. – Stacy Schulte Presenting. Commissioner Rhodes moved, seconded by Commissioner Talley to approve R-2569. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

The consideration and approval of Resolution R-2570 to sell Lots 19, 20, 21, 22, & 23, Block 61, Railroad Addition to Junction City, Geary County, Kansas known as 1101 N. Franklin Street; to Muhammed Sarker. Purchase price is \$12,000.00. – Stacy Schulte Presenting. Commissioner Rhodes moved, seconded by Commissioner Taylor to approve R-2570. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

The consideration and approval of Resolution R-2571 to sell Lot 5 Block 22, Railroad Addition to Junction City, Kansas, commonly known as 203 E. 17th Street; to Darrell Williams. Purchase price is \$10,000.00. – Stacy Schulte Presenting. Commissioner Rhodes moved, seconded by Commissioner Taylor to approve R-2571. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

The consideration and approval to upgrade patrol vehicle cameras at the Police Department. Total purchase price after trade-in of old cameras is \$59,490.00. – Chief Brown Presenting. Commissioner Rhodes

asked Chief Brown if the 14 new cameras would be placed in separate cars. Chief Brown answered yes and also mentioned that they would be in vehicles with emergency lights only. Commissioner Taylor moved, seconded by Commissioner Talley to upgrade patrol vehicle cameras at the Police Department. The cameras will be purchased with grant funds at no cost to the City. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

The consideration and approval of Vacation Order for Case No. VC-10-1-09, a petition to vacate the platted building setback line on property located at 1411 Settgest. – Dave Yearout Presenting. Commissioner Rhodes moved, seconded by commissioner Talley to approve Vacation Order for Case No. VC-10-1-09, a petition to vacate the platted building setback line on property located at 1411 Settgest. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

The consideration and approval of Ordinance G-1059 to increase the charge for the collection of garbage and trash from \$15.50 per month per unit to \$16.50 per month per unit. (First Reading). Commissioner Talley moved, seconded by Commissioner Taylor to table ordinance G-1059 in order to receive more information on the issue. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

The consideration and approval of authorization to dispose of the former Waterbed Store on 608 N. Washington. – Mike Guinn Presenting. Commissioner Taylor moved, seconded by Commissioner Johnson to dispose of the former waterbed store on 608 N. Wahington. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

The consideration and approval to apply for FEMA grant to assist with costs for 4 Fire Department Officers to obtain International Code Council fire Inspector 1 certification. The 10% match paid by the City is \$1,497.00. Mayor Heldstab asked Chief Steinfert if the matching funds would come from the Fire Department Budget; Chief Steinfert replied that the funds would come from the Fire Department budget. Commissioner Taylor moved, seconded by Commissioner Rhodes to allow the Fire department to apply for a FEMA grant to assist with costs for 4 Fire Department Officers to obtain International Code Council fire Inspector 1 certification. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

COMMISSIONER COMMENTS

Commissioner Taylor: Commissioner Taylor has received complaints regarding rolled up advertising being thrown in peoples lawns. This should

not be allowed. Someone at the Washington Court Apartments has complained to Commissioner Taylor that they are getting charged twice for trash service; both by their landlord and the City. Ed Lazear will contact customer service regarding this matter. Commissioner Taylor wanted to know where the City Manager was this evening. Mike Guinn responded the Rod Barnes was attending to personal business. Commissioner Taylor commented that City employees should not smoke in front of the Municipal building as citizens have complained to him, and it doesn't look professional. Commissioner Taylor asked Katie Logan to research the possibility of having term limits for City Commissioners.

Commissioner Johnson: Commissioner Johnson wanted it to be known that he is not against tax breaks; in fact he would like a 40% tax break for everyone as taxes are too high. Taxes cannot continue to go up every year.

Mayor Heldstab: Mayor Heldstab would like to have a report on NRP that outlines the facts on the program and the benefits there have been to the community. Jeffrey Black responded by informing that such a report will be ready in a month.

EXECUTIVE SESSION

Commissioner Talley moved, seconded by Commissioner Johnson to adjourn into executive session at 10:05 PM not to exceed 15 minutes to discuss attorney client privileges. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried. Included in the Executive Session were the Commission, Assistant City Manager, and the City Attorney.

Commissioner Taylor moved, seconded by Commissioner Talley to reconvene into regular session at 10:20 PM having made no decisions nor taken any action while in executive session. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

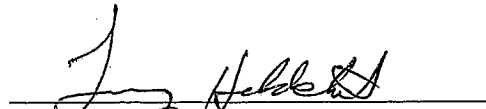
Commissioner Talley moved seconded by Commissioner Rhodes to approve payment of Personal Guarantee of \$200,000 by Friday, if sum is received from Unplugged Cities, then lawsuit will be dismissed without prejudice; payment of \$200,000 would satisfy Personal Guarantee of Mr. Kralovec, and Unplugged Cities would make payments on the remaining balance of \$200,000. Commissioner Talley moved seconded by Commissioner Rhodes to approve acceptance of Personal Guarantee of Mr. Kralovec. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

ADJOURNMENT

Commissioner Talley moved, seconded by Commissioner Rhodes to adjourn at 10:26 PM Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion Carried.

APPROVED AND ACCEPTED THIS 3rd DAY OF NOVEMBER 2009 AS THE OFFICIAL COPY OF THE JUNCTION CITY CITY COMMISSION MINUTES FOR OCTOBER 20, 2009.



Tyler Ficken, City Clerk

Terry Heldstab, Mayor